STATE OF INDIANA	)	IN THE LA PORTE SUPERIOR COURT NO. 4
	)SS:	
COUNTY OF LA PORTE	)	2005 TERM
		CAUSE NO. 46D04-0502-PL-069
LARRIANTE SUMBRY, Plaintiff	)	
vs.	)	
DAWN BUSS ISP ASST., ET AL, Defendants	)	

JUDGMENT

ORDER ON I.C. 34-58-1 SCREENING OF OFFENDER LITIGATION

This matter came before the Court for offender litigation screening under I.C. 34-58-1. The General Assembly did not define the exact process for such a review. It is clear that the process is non-adversarial, since there is no opposing party. It is equally clear that the process should be primarily focused on the complaint itself, but it is not clear whether the complaint should be examined in the context of the Proposed Plaintiff's previous litigation experience other than under I.C. 34-58-1. To this court, that seems important.

The obvious purpose of this screening procedure is to separate frivolous litigation from legitimate offender complaints. Part of that review necessitates an examination of vagueness in a proposed complaint in the context of the litigant's prior litigation experience. An examination in that context could save what is simply an inartfully drafted complaint from being dismissed as a frivolous complaint that is intended to harass. An inexperienced pro se litigator is more likely to make innocent mistakes that a more experienced litigator would not.

An examination in context was not prohibited by the statutes either expressly or by implication. The very purpose of these statutes is to stop frivolous litigation. In fact, I.C. 34-58-2-1 mandates denial

of access to the courts, except for limited purposes, for an offender who has been dismissed three times under Chapter 1. In order to make the necessary determination under I.C. 34-58-2-1, a court must at the least take notice of other lawsuits that the offender has filed in that court that have been dismissed under I.C. 34-58-1. At the most and more logically, that court must take notice of an offender's litigation record throughout the state as it pertains to I.C. 34-58-1. The latter seems more appropriate since otherwise an offender could forum shop for a different court every fourth lawsuit in order to continue a pattern of frivolous litigation long after three dismissals under I.C. 34-58-1. Certainly that is not what the General Assembly intended.

If a court must undertake such an informal investigation to comply with I.C. 34-58-2-1, it only makes sense that a I.C. 34-58-1 analysis allows, if not requires, the court to undertake a similar informal investigation into an offender's entire litigation history in order to make the findings required by I.C. 34-58-1-2(a)(1) and (b)(1). Certainly the General Assembly did not intend to wipe the slate clean for frequent frivolous litigators by enacting these statutes. It must have intended for trial courts to somehow consider other previous frivolous lawsuits when examining vague and unspecified allegations in a proposed complaint to determine whether the lawsuit is frivolous and intended to harass or not. What might be an innocent oversight for an inexperienced litigator could be viewed very differently for one who has filed numerous frivolous lawsuits before.

By way of letter, the court requested that Proposed Plaintiff Larriante Sumbry (hereinafter "Proposed Plaintiff") provide copies of relevant documents pertaining to the ultimate disposition of each and every case instituted by him against any person or entity while incarcerated at the Indiana Department of Correction.

In response thereto, Proposed Plaintiff failed to provide the documents as requested, but did provide a letter including a list of his litigation. A copy of that letter is attached as Exhibit 1. Of the six

cases on his list, three had been involuntarily dismissed, the Court found it had no jurisdiction of one, another was dismissed for failure to pay the partial filing fee, and the last was still pending before a special judge awaiting payment of partial filing fee.

In addition to the cases cited by Proposed Plaintiff in his letter, a cursory search of the Court's docket turned up an additional eight cases filed by the Proposed Plaintiff. Of the eight additional cases, five had been involuntarily dismissed, two awaited payment of a partial filing fee, and one was transferred to another court since it was a Post Conviction 1 relief petition. A simple text search of the Northeastern Reporter turned up no fewer than nine appeals in which Proposed Plaintiff had been a party.

Proposed Plaintiff has filed a tremendous number of lawsuits. His own incomplete list demonstrates that either he has no idea how many lawsuits he has filed or he does not care.

The Court reviewed Proposed Plaintiff's complaint in this light and finds that it alleges a number of unrelated grievances ranging from blindness induced by an unshaded light bulb to rusty drinking water to dust in his living space to an alleged deprivation of food, proper exercise regimen, good time credit, access to the law library, and more. Some of his grievances come close to sounding like a possible claim, but none is supported by any allegation that would provide the context needed to support a claim. None of his grievances are placed in a factual or legal context, if any exists. They are simply bald assertions.

Larriante Sumbry is not an inexperienced litigator. He has filed numerous lawsuits in numerous forums throughout this state. He has faced and filed many motions. He has even prosecuted appeals. In the form submitted and the context of his litigation experience, his complaint amounts to little more than a scattergun attempt to get some people into court for something.

Even under a relaxed standard of notice pleading, a litigant must allege some basis for his claim. Proposed Plaintiff has not. No defendant should be required to fish for a more definite statement or seek

dismissal if none is forthcoming. If any of these claims were allowed to be filed, that is exactly what would be required of the Proposed Defendants.

The Court finds as follows:

1. This complaint is frivolous;
2. This complaint, as presented, does not present a claim for which relief may be granted;
3. The named Defendants appear to be persons who are not immune from liability for the type of relief requested;
4. This lawsuit is made primarily to harass the Proposed Defendants;
5. This lawsuit, as presented, lacks an arguable basis either in law or fact;
6. This lawsuit should be dismissed.

IT IS THEREFORE ORDERED that this case is dismissed pursuant to I.C. 34-58-1.

IT IS FURTHER ORDERED that a copy of this Order be sent to each of the following:

a. The offender and Proposed Plaintiff, Larriante Sumbry;
b. Each named Proposed Defendant;
c. The Indiana Department of Correction;
d. The Attorney General of the State of Indiana.

ALL OF WHICH IS ORDERED this 25th day of February, 2005.

WILLIAM J. BOKLUND, JUDGE
LA PORTE SUPERIOR COURT NO. 4